

THE

MILITIA LAW

OF THE

REPUBLIC OF HAWAII

REPEALING AND REPLACING ALL PREVIOUS ENACTMENTS ON THE SUBJECT
PASSED AT THE SPECIAL LEGISLATIVE SESSION OF 1895 AND
APPROVED BY THE PRESIDENT.

HONOLULU:
HAWAIIAN STAR BOOK AND JOB PRINT.
1895.

AN ACT TO ESTABLISH AND REGULATE THE NATIONAL GUARD OF HAWAII AND SHARP-SHOOTERS, AND TO REPEAL ACT NO. FORTY-SIX OF THE LAWS OF THE PROVISIONAL GOVERNMENT OF HAWAIIAN ISLANDS, RELATING TO THE NATIONAL GUARD.

Be it enacted by the Legislature of the Republic of Hawaii:

SECTION 1. THE ORGANIZED AND UNIFORMED MILITARY FORCE of the Republic of Hawaii is known as the National Guard of Hawaii. This force shall consist of not less than four companies, which may be organized by order of the Commander-in-Chief and must be located throughout the Islands with reference to the military wants thereof, means of concentration and other military requirements. Provided, however, that the Commander-in-Chief may organize bodies of Sharpshooters, which shall not be a part of the National Guard of Hawaii, but shall be entitled to similar immunities, and in time of peace shall be subject only to such laws and regulations as may from time to time be prescribed for their government by the Commander-in-Chief.

SEC. 2. THE MILITARY FORCES OF THE REPUBLIC OF HAWAII shall be organized into COMPANIES, BATTALIONS, and REGIMENTS, and shall consist as follows:

COMPANIES shall consist of not less than forty nor more than one hundred and three officers and enlisted men. They shall be organized with one Captain, one First Lieutenant, and one Second Lieutenant, and not less than thirty-seven nor more than one hundred enlisted men.

Battalions shall consist of two or more Companies.

Regiments shall consist of two or more Battalions.

SEC. 3. The Field officers of a Regiment shall be one COLONEL, one LIEUTENANT-COLONEL, with one MAJOR for each Battalion.

The Staff of the commanding officer of a Regiment shall consist of one ADJUTANT, one QUARTERMASTER, one ORD-NANCE OFFICER, one SURGEON, and one CHAPLAIN, each with the rank of Captain, who are appointed by the commanding officer, and hold office at his pleasure or until their successors are appointed and qualified.

There shall also be an ADJUTANT appointed for each Battalion with the rank of FIRST LIEUTENANT.

The non-Commissioned staff consists of one Regimental SERGEANT-MAJOR, one SERGEANT-MAJOR for each Battalion, one QUARTERMASTER-SERGEANT, one ORD-NANCE-SERGEANT, one COMMISSARY-SERGEANT, two COLOR-SERGEANTS, and one CHIEF MUSICIAN, with the rank of SERGEANT-MAJOR.

SEC. 4. The PRESIDENT is the COMMANDER-IN-CHIEF of the National Guard.

SEC. 5. The staff of the Commander-in-Chief may consist of one Adjutant with the rank of LIEUTENANT-COLONEL, two MAJORS and such AIDES as he may deem necessary, with the rank of Captain, to hold office at his pleasure.

SEC. 6. The Commander-in-Chief is authorized and has power to establish and prescribe such rules and regulations, forms and precedents, not inconsistent with the provisions of the laws as he may deem proper for the use, government and instruction of the National Guard, and to carry into full effect the provisions of the laws relative thereto. Such rules, regulations, forms and precedents shall, from time to time, be revised, as may be deemed necessary, and shall be promulgated in orders and compiled in such form as

may be deemed advisable for the information of the National Guard, and shall have the same force as though prescribed by law.

SEC. 7. All Commissioned officers of the National Guard and Sharpshooters shall be commissioned by the Commander-in-Chief, but he may refuse to issue a commission to any officer elected or appointed if, in his opinion, the person elected or appointed is in any way unqualified or unworthy to be an officer in the National Guard.

SEC. 8. The Commander-in-Chief shall have authority to appoint and commission officers on active service in case of vacancy. The commission of any officer called into active service continues until he is discharged by order of the Commander-in-Chief. Any officer while on active service shall be subject to removal by order of the Commander-in-Chief.

SEC. 9. Vacancies in elective offices of the National Guard, not in active service, are filled by election. When vacancies occur at any election through the promotion of any officer, such vacancies may then and there be filled without further order. Elections of all Commissioned officers of companies not on active service must be by ballot and shall be presided over by an officer appointed for that purpose by the Commander-in-Chief, and such presiding officer shall if the election be for company officers give at least seven days notice of his appointment to all parties interested by causing the order appointing him to be posted in the armory and read to the company. If for field officers at least fourteen days notice by publication in some newspaper published in Honolulu. He shall within three days following the election report the result of said election to the Commander-in-Chief. In all elections for commissioned officers a majority of the votes of those present shall

be necessary to a choice. In order to the validity of such election there must be present at least a majority in number of those entitled to vote. In elections of Field officers, Field and Line officers are entitled to vote. Field officers hold office for two years, or until their successors are duly qualified. Line officers hold office for one year, or until their successors are duly qualified.

SEC. 10. Every elected Line officer of the National Guard must on his election to an office appear before an examining board for examination as to his qualifications for the office to which he has been elected.

SEC. 11. When an officer is re-elected no new commission issues, but a certificate of such election must be issued to him by the Commander-in-Chief.

SEC. 12. Whenever a sufficient number of persons subject to military duty subscribe a call for the organization of a Company, the Commander-in-Chief, with the advice of the Council of State, upon the application of such persons, may appoint a time and place of meeting for the purpose of organization, and detail an officer to preside over the same. Authority is hereby given the President to organize as a company of the National Guard as of July 1, 1895, certain persons who filed a petition to be so organized on June 15, 1895.

SEC. 13. The Commander-in-Chief may at any time, by and with the consent of the Cabinet for good and sufficient reasons, disband any portion of the National Guard and Sharpshooters.

SEC. 14. Any officer resigning his commission must do so in writing, addressing the Adjutant of the General Staff, giving his reasons therefore, and transmit the same through his immediate commanding officer, who will make

his endorsement thereon; and the resignation takes effect when accepted by the Commander-in-Chief and announced in orders.

SEC. 15. All officers and soldiers of the National Guard and Sharpshooters who comply with all military duties as provided in this Act are entitled to exemption from the payment of poll-tax, school tax and road-tax; and all officers and soldiers in active service shall be exempt from jury service.

SEC. 16. The Adjutant of the General Staff must make out on or before the fifth day of July of each year a complete roll of the military forces of each taxation District as they appear on the records of his office, July 1st, and furnish a copy of the same duly sworn to the assessors of the district wherein such force is located.

SEC. 17. All officers and soldiers of the National Guard, on becoming members and before performing duty, and at each subsequent re-enlistment, must take and subscribe to the following oath, which all commissioned officers thereof are empowered to administer: "I do solemnly swear that I will support the Government of the Republic of Hawaii and that I will serve honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the Republic of Hawaii and the orders of the officers appointed over me, and will maintain and defend the laws, and that I will serve in the National Guard of Hawaii as a soldier for the term of one year, provided that the Government should so long require my services." Which oath, certified by the officer administering the same, must be returned to the regimental adjutant and be preserved with the rolls of companies; oaths of re-enlistment shall show on the margin the number of re-enlistment.

SEC. 18. All fines and penalties for non attendance upon drills, parades and inspections, determined and imposed under the provisions of such rules and by-laws as may be adopted from time to time by any regiment, battalion or company and approved by the Commander-in-Chief, or such fines and penalties as may be determined by Court Martial may be collected by action in the District Court, in the name of the Republic of Hawaii; and the books and records of the regiment, battalion or companies and the proceedings under which delinquents are fined are prima facie evidence of the facts therein stated.

SEC. 19. Any enlisted man may be discharged before the expiration of his term of service, by order of the commanding officer of the battalion or regiment on the recommendation of his company commander, or for any of the following reasons: To accept promotion by commission; upon removal of residence out of the bounds of the command to which he belongs, to so great a distance that, in the opinion of such commanding officer, he cannot properly perform his military duty; upon disability, established by certificate of a medical officer. Or he may be dishonorably discharged for any of the following reasons: Upon conviction of a felony in a civil court; by sentence of a Court Martial.

SEC. 20. Any officer or enlisted man of the National Guard of Hawaii who shall be dishonorably discharged shall thereby be disabled to hold any office or employment in the service of the Republic of Hawaii unless pardoned by the Commander-in-Chief.

SEC. 21. In case of war, insurrection or rebellion, or of resistance to the execution of the laws of this Government, all employees of the Government, unless physically disabled shall report for duty and be subject to military service.

SEC. 22. The following officers may appoint courts martial: The Commander-in-Chief, General Courts Martial, the Regimental Commander, Regimental Courts, and every officer commanding a garrison or other place where troops are quartered shall be competent to appoint for such garrison or place garrison Courts Martial.

SEC. 23. Officers who may appoint a court martial shall be competent to appoint a judge-advocate for the same.

SEC. 24. Courts martial, and the judge-advocate thereof, shall have the same power to summon and examine witnesses as district courts.

SEC. 25. General courts martial may consist of any number of officers from three to five, inclusive.

SEC. 26. Regimental and Garrison courts may consist of any number of officers from one to three, inclusive.

SEC. 27. General courts martial shall have concurrent jurisdiction over all offenses which may be tried before a regimental or garrison court martial, and exclusive jurisdiction over the following offenses:

Conduct unbecoming an officer and a gentleman.

Enlisting in another company without proper discharge.

Disobeying a lawful command of a superior officer.

Inciting or joining in a mutiny or sedition, or failure to report same to commanding officer.

Desertion.

Cowardice while on active duty.

Misbehavior in presence of the enemy.

All felonies committed in the time of war by persons belonging to or serving with the National Guard or Sharpshooters.

Absenting oneself without leave.

Sleeping on post when a sentinel, or leaving post before being relieved.

Giving information to any person concerning the equipment of the National Guard or Sharpshooters, or the amount, kind, location of arms, ammunition or military stores the property of the Government.

Selling or appropriating or parting with any arms, ammunition or Government property.

Knowingly receiving or purchasing arms, ammunition or Government property from one not having lawful authority to sell or dispose of same.

Forcing safe guard in time of war.

Relieving with money, victuals or ammunition, or harboring, protecting, corresponding with or giving intelligence to the enemy directly or indirectly.

Making false muster or return.

Violating any regulations promulgated by the Commander-in-Chief for the Government of the National Guard and Sharpshooters.

Sec. 28. The following offenses shall be within the jurisdiction of regimental and garrison courts martial:

Occasioning false alarms.

Hiring duty, conniving at, or allowing same.

Drunkenness while on duty or while on active service.

Failure to report for duty, drill or parade.

Breaking furlough or leave.

Disorderly conduct on active service.

Want of personal neatness.

Want of care of arms, uniform, or equipment.

Profanity.

Lying out of quarters.

Reproachful or provoking speeches and gestures.

Disrespectful behavior to a superior officer.

Making known watchword to one not entitled to receive it.

Committing waste or spoil (unless by order of officer commanding in field).

SEC. 29. All officers and enlisted men in the service of the Republic of Hawaii, shall at all times be subject to trial by court martial.

SEC. 30. Officers shall be tried only by general courts martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

SEC 31. All members of courts martial before proceeding with any trial shall take an oath to administer justice without partiality, favor or affection, according to the laws of the Republic of Hawaii.

SEC. 32 In the conduct of all trials, courts martial shall follow military usage and precedents heretofore established and as set forth in the statutes and regulations governing the army of the United States.

SEC. 33. All persons who in time of war, rebellion or insurrection against the supreme authority of the Republic of Hawaii, shall be found lurking or acting as spies, in or about any of the fortifications, posts, quarters or encampments of the military forces of the Republic of Hawaii or elsewhere, shall be triable by a general court martial, or by a military commission, and shall, upon conviction thereof, suffer death or such other penalty as may be imposed by such court martial or military commission.

SEC. 34. All persons sentenced to imprisonment by courts martial or military commissions may be confined in such place as the sentence of the court may direct.

SEC. 35. No sentence of death; imprisonment, or dismissal of officers from the service, shall be valid unless approved by the Commander-in-Chief.

SEC. 36. All infractions against military discipline shall be punished as courts martial may direct.

SEC. 37. General courts martial, in time of peace, may impose the punishment of fine not exceeding fifty dollars

and (or) dishonorable dismissal from the National Guard, in the case of officers and enlisted men not on active service when found guilty of any offence named in this Act, or of any violation of any regulation promulgated by the Commander-in-Chief. And in case of officers and enlisted men on active service, such courts may punish by fine not exceeding one hundred dollars and imprisonment until such fine is paid, and (or) by imprisonment not exceeding twelve months, and (or) by dishonorable dismissal from the service.

SEC. 38. In time of war, general courts martial or military commissions may impose the penalty of death and may impose all penalties, authorized by law for offenses which may be tried by such courts martial or military commissions, and may impose a fine not exceeding five hundred dollars, and (or) imprisonment at hard labor not exceeding five years, in all cases not otherwise provided for.

SEC. 39. Regimental or garrison courts martial in time of peace, may impose punishment by fine not exceeding ten dollars and (or) dishonorable dismissal from the National Guard in case of enlisted men not on active service, and in case of enlisted men on active service by fine not exceeding forty dollars and (or) by imprisonment not exceeding one month and in time of war, by fine not exceeding one hundred dollars and (or) imprisonment not exceeding three months, and (or) by dishonorable dismissal from the National Guard.

SEC. 40. All retainers to the camp, and all persons serving with the military or armed forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war.

SEC. 41. Every officer commanding a company shall be charged with the arms, accoutrements, ammunition,

clothing or other stores belonging to his command, and shall be accountable to the Government for the same in case of their being lost or damaged otherwise than by unavoidable accident or in actual service.

SEC. 42. Any commissioned officer who has served for a continuous period of five years or who has become disabled and incapable of longer performing the active duties of his office may, upon his own application, be placed upon the retired list, if, upon examination by a medical officer, it is found that such disability was not incurred by reason of any dereliction on his part. Officers retired will hold the rank held by them at the time of retirement and shall only be subject to detail for duty by orders from the Commander-in-Chief. When detailed for duty they will take rank next to officers of like rank upon the active list.

SEC. 43. In case of war, insurrection, rebellion, or of resistance to the laws of this Government, the National Guard and Sharpshooters, or any part thereof, may be called into active service upon the call or requisition of the Commander-in-Chief. Any member of the National Guard or Sharpshooters, who neglects or refuses to rendezvous, when ordered out by the Commander-in-Chief, is guilty of disobedience of orders, and may be tried and punished by a Court Martial.

SEC. 44. The National Guard and Sharpshooters of Hawaii shall be armed and equipped as prescribed from time to time by the Commander-in-Chief.

SEC. 45. No military organization provided for in this Act shall, either for ceremony or duty, carry any flag of any state or nation except that of the Government of the Republic of Hawaii.

SEC. 46. The National Guard of Hawaii, as it is at present organized, and all commissions, orders and regulations

issued or pertaining thereto, shall remain in full force and continue under this Act, except as altered or changed by or under the provisions hereof. And all officers and men now members of the National Guard shall be subject to the provisions of this Act as members of the National Guard or Sharpshooters respectively.

SEC. 47. Act No. 46 of the Laws of the Provisional Government of the Hawaiian Islands relating to the National Guard and, all laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

SEC. 48. This Act shall take effect from the date of its publication.

